



## DEPARTMENT OF VETERANS AFFAIRS

8320-01

Loan Guaranty: Maximum Allowable Attorney Fees.

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice.

**SUMMARY:** This notice provides updated information to participants in the Department of Veterans Affairs (VA) Home Loan Guaranty program concerning the maximum allowable bankruptcy attorney fees that are incurred by a servicer for legal services performed on their behalf. The notice also provides the allowable maximum attorney fees in calculating the indebtedness used to determine the guaranty claim payable upon loan termination. The table in this notice contains the amounts the Secretary has determined to be reasonable and customary for all States, following an annual review of amounts allowed by other government-related home loan programs.

**DATES:** The new maximum amounts for bankruptcy attorney fees will be allowed for each bankruptcy filed on or after [Insert date 30 days after date of publication in the FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Mr. Andrew Trevayne, Assistant Director for Loan and Property Management (261), Loan Guaranty Service, Department of Veterans Affairs, Washington, DC 20420, (202) 632-8795 (Not a toll-free number).

SUPPLEMENTARY INFORMATION: The VA Home Loan Guaranty program authorized by title 38, United States Code (U.S.C.), Chapter 37, offers a partial guaranty against loss to lenders who make home loans to veterans. VA regulations concerning the payment of loan guaranty claims are set forth at 38 CFR 36.4300, et seq. Computation of guaranty claims is addressed in 38 CFR 36.4324, which states that one part of the indebtedness upon which the guaranty percentage is applied is the allowable expenses/advances as described in 38 CFR 36.4314. Paragraph (b)(5)(ii) of section 36.4314 describes the procedures to be followed in determining what constitutes the reasonable and customary fees for legal services in the termination of a loan.

The Secretary annually reviews allowances for legal fees in connection with the termination of single-family housing loans, including foreclosure, deed-in-lieu of foreclosure, and bankruptcy-related services, issued by the Department of Housing and Urban Development (HUD), the Federal National Mortgage Association (Fannie Mae), and the Federal Home Loan Mortgage Corporation (Freddie Mac). Based on increases in bankruptcy attorney fees announced over the past year by these entities, the Secretary has deemed it necessary to publish in the Federal Register a table setting forth the revised amounts the Secretary now determines to be reasonable and customary for bankruptcy attorney fees. The table reflects the primary method for foreclosing in each state, either judicial or non-judicial, with the exception of those states where either judicial or non-judicial is acceptable. The use of a method not authorized in the table will require prior approval from VA. This table will be available throughout the year at: <http://www.benefits.va.gov/homeloans/>.

There has been no change to the amounts VA will allow for attorney fees for foreclosure termination and for deeds-in-lieu of foreclosure. VA will continue to monitor these fees on an annual basis, as we are aware that other entities are conducting ongoing reviews of these fees.

The following table represents the Secretary's determination of the reasonable and customary cost of legal services for the preferred method of terminating VA loans in each jurisdiction under the provisions of 38 CFR 36.4314(b)(5)(ii).

Jurisdiction	VA Non-Judicial Foreclosure <sup>1,2</sup>	VA Judicial Foreclosure <sup>1,2</sup>	Deed-in-Lieu of Foreclosure
Alabama	\$1325	N/A	\$350
Alaska	\$1600	N/A	\$350
American Samoa	\$1,600	N/A	\$350
Arizona	\$1350	N/A	\$350
Arkansas	\$1400	N/A	\$350
California	\$1350	N/A	\$350
Colorado	\$1650	N/A	\$350
Connecticut	N/A	\$2450	\$350
Delaware	N/A	\$1800	\$350
District of Columbia	\$1200	\$2300	\$350
Florida	N/A	\$2800	\$350

Georgia	\$1325	N/A	\$350
Guam	\$1600	N/A	\$350
Hawaii	N/A	\$2950	\$350
Idaho	\$1150	N/A	\$350
Illinois	N/A	\$2300	\$350
Indiana	N/A	\$2050	\$350
Iowa	\$1275	\$1880	\$350
Kansas	N/A	\$1800	\$350
Kentucky	N/A	\$2250	\$350
Louisiana	N/A	\$1900	\$350
Maine	N/A	\$2300	\$350
Maryland	\$2400	N/A	\$350
Massachusetts	N/A	\$2550	\$350
Michigan	\$1425	N/A	\$350
Minnesota	\$1450	N/A	\$350
Mississippi	\$1200	N/A	\$350
Missouri	\$1350	N/A	\$350
Montana	\$1150	N/A	\$350
Nebraska	\$1150	N/A	\$350
Nevada	\$1525	N/A	\$350
New Hampshire	\$1350	N/A	\$350
New Jersey	N/A	\$2975	\$350
New Mexico	N/A	\$2000	\$350

New York—Western Counties <sup>3</sup>	N/A	\$2675	\$350
New York—Eastern Counties	N/A	\$3475	\$350
North Carolina	\$1575	N/A	\$350
North Dakota	N/A	\$1750	\$350
Ohio	N/A	\$2250	\$350
Oklahoma	N/A	\$2000	\$350
Oregon	\$1350	\$2600	\$350
Pennsylvania	N/A	\$2350	\$350
Puerto Rico	N/A	\$2050	\$350
Rhode Island	\$1725	N/A	\$350
South Carolina	N/A	\$2200	\$350
South Dakota	N/A	\$1800	\$350
Tennessee	\$1200	N/A	\$350
Texas	\$1325	N/A	\$350
Utah	\$1350	N/A	\$350
Vermont	N/A	\$2250	\$350
Virgin Islands	N/A	\$1800	\$350
Virginia	\$1350	N/A	\$350
Washington	\$1350	N/A	\$350
West Virginia	\$1150	N/A	\$350
Wisconsin	N/A	\$2000	\$350
Wyoming	\$1150	N/A	\$350

<sup>1</sup>When a foreclosure is stopped due to circumstances beyond the control of the holder or its attorney (including, but not limited to bankruptcy, VA-requested delay, property damage, hazardous conditions, condemnation, natural disaster, property seizure, or relief under the Servicemembers Civil Relief Act) and then restarted, VA will allow a \$350 restart fee in addition to the base foreclosure attorney fee. This fee recognizes the additional work required to resume the foreclosure action, while also accounting for the expectation that some work from the previous action may be utilized in starting the new action.

<sup>2</sup>VA will allow attorney fees of \$1050 (Chapter 7) or \$1500 (initial Chapter 13) for obtaining bankruptcy releases directly related to loan termination. For multiple bankruptcy filings under either chapter, VA will allow an additional \$500.

<sup>3</sup>Western Counties of New York for VA are: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Steuben, Wayne, Wyoming, and Yates. The remaining counties are in Eastern New York.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Acting Chief of Staff, approved this document on January 27, 2017, for publication.

Approved: January 27, 2017

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Jeffrey Martin

Office Program Manager

Office of Regulation Policy & Management

Office of the Secretary

Department of Veterans Affairs

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